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ASTRAZENECA R&D BOSTON  
35 GATEHOUSE DRIVE  
WALTHAM, MA 02451-1215

In re Application of  
Butlin et al.  
Application No. 10/595,386  
PCT No.: PCT/GB04/04283  
Int. Filing Date: 11 October 2004  
Priority Date: 16 October 2003  
Atty. Docket No.: 101243-1P US  
For: Inhibitors Of Dipeptidyl Peptidase IV

DECISION

This is in response to the declaration of the inventors filed on 06 September 2006, which is being treated under 37 CFR 1.42.

### **BACKGROUND**

This international application was filed on 11 October 2004, claimed an earliest priority date of 16 October 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 06 May 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 16 April 2006. Applicants filed, *inter alia*, the basic national fee on 13 April 2006.

### **DISCUSSION**

Review of the declaration of the inventors filed on 06 September 2006 reveals that it does not nominate inventor Rodney Hargreaves (who was named in the published international application), but that it is accompanied by a "Declaration Supplemental Sheet..." signed by Jill Hargreaves in the capacity of "Legal Representative." 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

The declaration filed on 06 September 2006 does not nominate the same inventive entity as named in the published international application, because it does not name Rodney

Hargreaves as an inventor (nor does it provide his citizenship, residential address or mailing address). The "Declaration Supplemental Sheet..." provides citizenship, residential address and mailing address information for the legal representative, but there is no explicit indication that she is signing as the legal representative of Rodney Hargreaves. It is also noted that the declaration names "KEMMIT, Paul, David" in place of the "KEMMITT" appearing in the published international application; applicants are required to resolve this discrepancy as well.

### CONCLUSION

The declaration is **NOT ACCEPTED** under 37 CFR 1.42, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42." Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
Tel: (571) 272-3283  
Fax: (571) 273-0459